

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)
)
)
v.) CASE NO. 2:04-cv-1110-MEF
)
ALFRED ALLEN LEE)

ORDER

After an independent review of the file, it is the ORDER, JUDGMENT and DECREE of the court that:

- (1) The defendant's Partial Objection to the Magistrate Judge Recommendation (Doc. #28) filed on January 5, 2007 is overruled;
- (2) The Recommendation of the United States Magistrate Judge entered on December 22, 2006 (Doc. #27) is adopted;
- (3) The 28 U.S.C. § 2255 motion filed by the defendant is GRANTED in part and DENIED without prejudice in part. Specifically,
 - (a) The defendant is granted the opportunity to file an out-of-time appeal based on his claim that his counsel rendered ineffective assistance by failing to prosecute his direct appeal.
 - (b) The defendant's remaining claims for relief are dismissed without prejudice.

DONE this the 10th day of January, 2007.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE